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HOUSATONIC RESOURCES RECOVERY AUTHORITY
SPECIAL ANNUAL MEETING MINUTES

Thursday, June 24, 2010 10:30 a.m.

Room 209, Brookfield Town Hall

Members or Alternates Present and Voting:

Bethel, Matthew Knickerbocker	8
Brookfield, Joni Park	7
Danbury, Joel Urice	35
Kent, Dolores Schiesel	1
New Fairfield, Mike Gill	6
New Milford, Suzanne Von Holt	13
Newtown, Herb Rosenthal	12
Redding, Larry Kulowiec	4
Ridgefield, Rudolph Marconi	11
Sherman, Andrea O'Connor	<u>2</u>
	99

Others Present:

Cheryl Reedy, HRRRA Director
Bruce Adams, Kent Alternate
Fred Hurley, Newtown Alternate
Lynn Waller, Public
Dave Dunleavy, RTI
Ann Marie Mitchell, HEAT
Andy Kozo, Best Sanitation
Bob Miller, Danbury News Times
Steve Hastings, Hudson Baylor
Gina Chiarella, WeRecycle!
Anthony Hague, WeRecycle!
All American Waste Representative

Members Not Present

Bridgewater, William Stuart

Call to Order: The meeting was called to order by Chairman Gill at 10:30 a.m. with a quorum of 91 votes from nine towns present. M. Knickerbocker entered the meeting at 10:40 a.m. during public comment bringing the total votes present to 99 from ten municipalities. Dolores Schiesel left the meeting at 11:30 a.m. during agenda item 6 (e) and Bruce Adams took over as the voting member from Kent at that time.

Public Comment:

- Lynn Waller said she was really happy that electronics recycling was starting in Danbury.
- Ann Marie Mitchell from HEAT passed out copies of a photo taken June 22, 2010 at the HRRC/Newtown Transload transfer station in Hawleyville showing C&D debris dumped on the ground for processing with no cover. She noted that the Governor's veto of the legislation that would have required the DEP Commissioner to determine need prior to submittal of a transfer station permit application was unanimously overridden by the legislature. She also asked the members for their support in agenda item 9(b) by agreeing to send a letter to the DEP Commissioner expressing opposition to the Hawleyville railroad transfer station.
- Gina Chiarella, Vice President of WeRecycle! LLC, announced that due to the generosity of a computer manufacturer who wants to remain anonymous, effective immediately WeRecycle! will accept all residential electronics (including those with CRTs) at no cost to the municipalities, even before the start of the State e-waste program. She gave an enthusiastic overview of the history of her company and the flexible services they are able to provide to meet the unique needs of any HRRRA municipality that signs the Adoption Agreement found in the HRRRA/WeRecycle! contract. She introduced Anthony Hague who will be training and providing onsite services to the municipalities who have signed the agreement. She also stressed the importance of the e-steward certification awarded to WeRecycle! E-steward certified companies are environmental leaders in the

recycling and asset recovery business and experts in data security and worker protection. It is the HRRAs municipalities' guarantee that the end of life management for all electronics the Company recycles from the region will meet the highest ethical, human health and environmental standards possible. (M. Knickerbocker entered the meeting during the above comments.)

Nominating Committee Report and Election of Officers for FY 2010-11

S. Von Holt gave the Nominating Committee report on behalf of herself and the other two members, J. Urice and L. Kulowiec. The Nominating Committee recommended the following slate of officers for HRRAs for a term commencing July 1, 2010 and ending June 30, 2011:

- Chairman – Mike Gill
- Vice Chairman – Rudy Marconi
- Secretary – Andrea O'Connor
- Treasurer – Herb Rosenthal
- Asst. Treasurer – Mark Boughton

There were no additional nominations from the floor. **Motion** by J. Park, second by M. Knickerbocker to accept the Nominating Committee's recommendations and elect the slate as proposed. **Vote:** All in favor.

Chairman's and Members' Comments

- Chairman Gill welcomed Lynn Waller back to the HRRAs meetings after a prolonged absence. He thanked the six municipalities that participated in the May 22nd HHW collection in Newtown for working together and sending employees and volunteers to ensure that the site was properly staffed for customer convenience and for public safety. Chairman Gill also thanked all the local legislators who got behind and supported the paint initiative in the last legislative session, especially Rep. Clark Chapin from New Milford. End of life management of oil based paint accounts for 25-40% of the cost municipalities pay for each HHW collection in the region. The paint initiative would have shifted that cost from property taxpayers to the paint producers and paint purchasers. The legislation passed unanimously in the House, but never came to a vote in the Senate. Although promises were made that the bill would be put on one of the last consent calendars of the night before the legislature adjourned, the Senate ran out of time and the bill died.
- H. Rosenthal said that as a Democrat he was ashamed that Don Williams as Senate President could not get the job done to save municipalities money at no cost to the State, not just on the paint initiative but on extension of the conveyance tax and other matters.

Director's Report

The Director's Report was devoted solely to ensuring that all municipalities know and understand the serious nature of the challenges faced by the solid waste system in the region, what those challenges mean for municipalities and for the future of HRRAs. C. Reedy passed out copies of the tonnage reports through May 31, 2010 as well as graphs and a chart showing the falling MSW tonnage for the region and the potential costs to municipalities of falling below the minimum guaranteed MSW tonnage by as little as 5%. The highlights of the Director's verbal report were as follows:

Increased MSW Diversion from Region

- MSW tonnage in the system has been in decline for the past two years, starting in the 3rd quarter of 2008.
- The start of the decline coincided with two significant events, i.e. the crash of the financial markets and the sentencing of James Galante and subsequent transfer of ownership of his seized assets to the U.S. Government.
- By August 2009 the tonnage at the Newtown and Ridgefield transfer stations started to trend upward again, and that trend has continued through May 2010. Both of these transfer stations have taken in more MSW in the past 12 months than in the prior 12 months, 106% and 103% respectively.
- Something different is happening at the Danbury transfer station, and that is more significant for the region because Danbury is the designated disposal site for approximately 80% of the region's MSW.

- The downward trend in MSW coming into the Danbury transfer station that started in October 2008 has continued unabated through May 2010.
- If the current rate of decline continues through the end of 2010, total tonnage from HRRAs flowing to Wheelabrator will have fallen 17.2% in the last three years or approximately 30,000 tons per year.
- Total MSW tonnage generated in HRRAs municipalities that stays in the HRRAs system has been falling for the last three years. Initially it seemed as if the downturn in the economy was the major cause of the tonnage decline. For example, from calendar year 2007 to 2008, HRRAs MSW tonnage dropped 3.5% with most of the decline accounted for by falling tonnage coming into the Newtown and Ridgefield transfer stations while the Danbury transfer station was holding approximately even with prior years until October 2008.
- Two solid waste collector report taking MSW out of the region, i.e. Cerreta Waste/Somers Sanitation dba Bria Carting and Welsh Sanitation. Cerreta/Somers is registered to collect in all HRRAs municipalities except Bridgewater and Kent. Welsh Sanitation is registered to collect only in Kent and New Milford.
- Based on limited reporting Cerreta/Somers diverts approximately 1,500 MSW tons per year to the Somers Sanitation transfer station in Somers, NY.
- Welsh has not done even limited reporting of the MSW diverted to its own transfer station in Patterson, NY, but it is primarily tonnage from three private schools in the Town of Kent.
- Ben Fusco & Sons was reported by the Westchester County Solid Waste Authority to have tipped at least once at the Somers, NY transfer station, and there is anecdotal evidence of other haulers using transfer stations in other parts of CT to tip HRRAs generated MSW.
- Collection market share for the AWD affiliated companies who always use the Danbury transfer station to tip is reportedly down.
- All the known diversions, even with the limited information available, do not account for 30,000 tons per year.

Why is This a Serious Challenge for the Regional Solid Waste System and for Individual Municipalities?

- HRRAs (and all member municipalities through it) have a put or pay contract through 2019 with Wheelabrator that requires each municipality, and the region as a whole, to send to Wheelabrator a minimum guaranteed tonnage (MGT) each year or pay for the shortage. Each municipality has a MGT and the MGT for the region as a whole is 115,284 tons per year.
- Shortages in individual municipalities can be made up by overages in other municipalities, but if the region as a whole drops below the regional MGT, every municipality that is below its own MGT will pay its own shortfall.
- From 2003-2007 the region as a whole was sending approximately 147% of MGT to Wheelabrator each year. In 2008 that declined to 142%. In 2009 it declined again to 130%. And, at the current rate, the region will end 2010 at 122% of MGT.
- Some municipalities are in better shape than others in meeting their own MGT, but **it is likely that when the June 2010 tonnage figures come in, one or more municipalities may have fallen below their individual MGTs for the 09-10 fiscal year.**
- Cerreta Waste, for example, reported taking 380 T of MSW from Brookfield out of the region for disposal in the first quarter of 2010. If that amount is annualized, it would put Brookfield below its MGT by about 3% for the year. Other municipalities will be over their MGT so the region as a whole should exceed the regional MGT and no municipality will have to pay for the tonnage it did not produce per contract next year.

- **If tonnage diversion from the HRRRA system continues unabated at the current rate, within three years it is possible that the region as a whole will fall below the regional MGT of 115,284. That means that municipalities would have to start paying Wheelabrator for their individual tonnage shortfalls or purchase MSW in an amount equal to that tonnage shortfall on the spot market to send to Wheelabrator.** Municipalities would make these payments from tax dollars.
- To give each municipality some idea of the potential cost, see the attached chart entitled *WES MSW Tonnage Decrease and Cost of Falling 5% Below MGT by Town*. The chart shows the cost to each municipality at the current year's tip fee of hypothetically falling 5% below its MGT.

Has Increased Competition Helped Solve or Exacerbate the Problem?

- Both residential and commercial customers clearly have more choice for their solid waste business now compared with 2004-05 before the U.S. government took steps to eliminate the influence of organized crime on the solid waste business in western CT and eastern NY. In most cases that has resulted in savings for customers and/or added services, e.g. pick up at the house not the curb, provision of wheeled carts, etc.
- In 2004-05 HRRRA permitted 50 haulers with 222 trucks, 33 of whom collected MSW for hire using 186 permitted trucks. By 2009-10 HRRRA permitted 67 haulers with 256 trucks, 50 of whom collected MSW for hire using 222 trucks. In other words, **the number of companies collecting trash for profit increased by 57% in the HRRRA region in the past five years, and those companies put 19% more garbage collection trucks on local roads.** In the last year alone, 7 brand new haulers, not new to the system but newly created companies, got HRRRA permits, all with one truck each.
- While trash collection companies may have doubled in the last five years, the amount of MSW created in the region (including diverted MSW) has not increased.
- That means there are more and more collection companies competing for the same amount of business. Some companies, either purposefully or due to lack of experience, have reportedly priced their services below the cost of doing business.
- Some argue that the Invisible Hand of the market will take care of all this, and that those companies who are not competitive or inexperienced will eventually go out of business or be purchased by more successful companies, thus culling the number of haulers back to what is required to service the region.
- In the culling process wrought by the Invisible Hand, however, those haulers who are tipping MSW in NY at transfer stations with lower tip fees will have an advantage over those who work within the HRRRA system. They will be more able to buy out struggling haulers and create a larger book of business for their company or companies, thus diverting more MSW from the region.
- **If nothing changes in the next year or two, the haulers with the most competitive advantage will be those who divert both MSW and recycling from the regional solid waste system, a system set up 20 years ago to serve the public interest and meet municipal solid waste disposal and recycling responsibilities required by state law when local landfills in each town in the region closed. That will increase the risk for municipalities and the region to fall below the MGT requiring the use of tax dollars to cover tonnage shortfalls. It will unfairly disadvantage all the haulers who have tried to work within the regional solid waste system for many years. It will decrease the financial stability of HRRRA. And even if municipalities decide to dissolve HRRRA, the liability from the Wheelabrator contract will remain with each municipality through 2019.**

At this point in the Director's Report, R. Marconi said, "Okay, now you've got our attention. What do we do to address the problem?" The discussion turned to the limited possible solutions and the likelihood of their enactment with the caveat that all the options under the municipalities' control require starting NOW if the Authority wants to avert a crisis in 3 years or so. The options available that were discussed included:

1. **Flow control** – Only legally possible if the Danbury transfer station is soon sold to the City. Even then, flow control ordinances will have to be passed or amended in all HRRRA municipalities. That would be difficult and perhaps even unlikely in all HRRRA municipalities. Flow control also would have to be enforced and likely defended from legal challenge.
2. **Municipal garbage/recycling collection** - Unlikely that any municipality in the region would want to or be able to gain approval to start providing garbage collection as a municipal service using municipal employees.
3. **Franchise garbage/recycling collection** – Newtown already provides a type of franchised recycling collection in which the town pays the franchisees and the cost is included in the tax base. A carefully crafted franchise plan could preserve the greatest number of hauler businesses, but it will still be vigorously opposed by haulers and by some residents.
4. **Lower the MSW tip fee and/or the MGT with Wheelabrator** – If the haulers who are diverting MSW from the region are doing so because of price, lowering the tip fee should help to bring some or all of the tonnage back into the regional transfer stations. It would require negotiations with an agreement on a lower tip fee by Wheelabrator. Depending on the changes made to the agreement, it could require approval by the legislative body of each municipality. There is some anecdotal information provided by a few haulers, however, to suggest that the diversion from the Danbury transfer station is not a result of price but a result of a purposeful effort to cause the transfer station and hauling companies under the same ownership to fail either to drive competition out of the market or to reassert the influence of organized crime on the collection market in the region.
5. **Take all available interim municipal action possible** – If HRRRA member municipalities seriously want to maintain the viability of the regional solid waste system then there are a number of interim measures that they may be able to take to better control their own destiny and that of the region. For example, **municipalities should stop doing business with any hauler who diverts either MSW or recycling from the regional system.** Municipalities could review with their town/city attorney all options currently available to them under the municipal registration process to improve the stability of the regional solid waste system and exercise a little control over the system locally, i.e. deny registration to haulers who violate state or local laws that protect public health, safety and welfare, e.g. littering, truck to truck transfers, failure to tarp vehicles, failure to use liquid tight vehicles for collection, deny registration to haulers who fail to comply with state law on reporting tonnage collected in the municipality, etc.
6. **Do nothing** – Municipalities can decide to do nothing for now and wait for more information to become known. The risk with this course of action is that by the time the problem is clearly knowable, there may not be enough time to take the necessary actions to effect the best corrective option.

The Authority agreed that the significant decline in MSW tonnage over the last few years warranted a meeting devoted solely to that issue and possible solutions. The Director was asked to gather more information on the options available within each municipality as well as on flow control, franchising, lowering the MSW tip fee, etc. before that meeting.

Administrative Approvals

- a) **Motion** by J. Urice, second by H. Rosenthal to approve the minutes of the April 22, 2010 meeting as presented. **Vote:** All in favor except for J. Park who abstained because she was not present at the meeting.
- b) **Motion** by H. Rosenthal, second by J. Urice, to approve the financial statements as presented through May 31, 2010. **Vote:** All in favor.
- c) **Motion** by J. Urice, second by J. Park, to award the Audit Services contract for 2009-11 FYs to Nanavaty, Nanavaty & Davenport, as recommended by the Executive Committee. **Vote:** All in favor.
- d) **Motion** by M. Gill, second by A. O'Connor, to award the HHW vendor contract for 2001-13 FYs to MXI, as recommended by the Executive Committee. **Vote:** All in favor, except S. Von Holt who abstained.

- e) **Motion** by M. Gill, second by A. O'Connor, to authorize the Director, as directed by the Treasurer in his discretion and as approved by the auditor, to invest up to \$450,000 of the Authority's fund balance in the six no-load Vanguard Bond Funds listed at the bottom of page two in a Memo to CCM Board of Directors entitled Use of Bond Funds by CCM, dated May 17, 2010, as recommended by the Executive Committee. **Vote:** All in favor. (D. Schiesel left the meeting at 11:30 a.m. during this agenda item. Subsequent votes cast on behalf of the Town of Kent were cast by B. Adams, Kent Alternate.)
- f) **Motion** by J. Urice, second by S. Von Holt, to adopt the HRRRA 2010-11 budget, as recommended by the Executive Committee, totaling \$389,835 in budgeted expenditures, \$284,080 in anticipated revenue, and use of fund balance in the amount of \$105,755. **Vote:** All in favor.

Legislative Update:

- a. *Paint Product Stewardship Bill 5122* – This agenda item was covered during the Chairman and members' comments section of the meeting.
- b. *Covered Electronic Waste Recycling Law CGS 22a-629 to 22a-900* – The Director passed out an updated version of agenda packet Attachment H summarizing the implementation of the state e-waste law in the region. The updated version takes into account the WeRecycle! announcement earlier in the meeting that there will be no cost to participating municipalities for all residential electronics, whether covered by the state law or not, whether with a CRT or not, effective immediately. Regulations to implement the law became effective on June 1, 2010 and municipalities must be prepared to implement the law locally by October 1, 2010. All HRRRA municipalities have signed on to the regional contract between HRRRA and WeRecycle! except for the City of Danbury (anticipated soon), the Town of Brookfield (which uses the New Milford Recycle Center), and the Town of Kent (which has an existing contract with another e-waste vendor that has not yet expired).
- c. *Recycling Bill HB 5120 (PA 10-87)* – This legislation did pass in the last session and was signed by the Governor. The Director provided a bulleted summary of requirements and changes for municipalities in PA 10-87 as well as requirements for haulers in the agenda packet. The requirements affecting municipalities that become effective in 2010 include:
- Annual municipal recycling report to DEP due September 30th in 2010 and henceforth rather than August 31st.
 - One or more collection containers, separate from MSW containers, is required at all non-residential properties, including municipal properties, for all designated recyclable items.
 - Six mandatory questions/disclosures required of haulers to annually register with each municipality in which they collect. (The HRRRA permit renewal/municipal registration form was changed to reflect this new requirement so that all municipalities that authorize HRRRA to register haulers on their behalf will be in compliance by July 1, 2010 as required.)

Old Business

- a. *Municipal Violations of Recycling Services Agreements with HRRRA through All American Waste* – A draft letter (copy provided in the agenda packet) was approved by the Executive Committee to be sent to all municipalities currently in violation of their MRSA with HRRRA by contracting with a collector, All American Waste, which does not deliver recyclables generated by municipal facilities to RTI. This item is on the agenda again after the April 22nd meeting to give the Director guidance as to the type of letter the Authority wanted sent on its behalf.
- b. *Responses to RFP for Single Stream Recycling Processing* – Four responsive proposals were received to the RFP from CRRRA, Hudson Baylor, Murphy Road Recycling and Willimantic Waste. However, it is apparent that the RFP was not clear and that all proposers interpreted the request in different ways making response comparisons impossible and unfair. Once the proposals are clarified and the discrepancies resolved, the Executive Committee will make a recommendation to the full Authority on which vendor(s), if any, will be able to meet the needs of HRRRA and RTI.
- c. *RTI Agreement Default and/or Termination Update* – No RTI defaults have been cured or addressed since the April HRRRA meeting. However, a decision to terminate the RTI contract is on hold while the parties try to work out an agreement on simply transferring recyclables from RTI to a single stream recycling processor. Such an agreement could successfully address many of the long-standing, uncured RTI defaults.
- d. *Transfer Station Sale Update* – No update information is available.

New Business

- a. *Policy on Limiting Public, Non-Profit and Political Solicitation at HHW Collections in the Interest of Public Safety* – C. Reedy passed out an updated Attachment K containing revisions made by HRRRA legal counsel Bob Metzler. Chairman Gill reported that this policy resulted from a political candidate and campaign worker as well as a non-profit community group that showed up at the last HHW collection without prior notice, who did not follow instructions from the Director at all times, and who posed a safety hazard to themselves, the public and the municipal workers/volunteers at the collection. F. Hurley, who was present at the aforementioned collection, said he agreed that these two groups posed a safety problem at the event and that a policy, which all participating municipalities would stand behind, had to be set in advance for future collections. **Motion** by R. Marconi, second by J. Park, to adopt the Policy on Third Party Solicitations at HRRRA Administered Household Hazardous Waste Collections, as recommended by the Executive Committee, to become effective immediately. **Vote:** All in favor.
- b. *Request from HEAT for HRRRA Letter to Commissioner Marella on HRRRC Transfer Station* – **Motion** by J. Urice, second by J. Park, to authorize the Director to draft a letter for the Chairman's approval to go to DEP Commissioner Marella on behalf of HRRRA noting any discrepancies between the operation of the HRRRC transfer station and the State Solid Waste Management Plan. **Vote:** All in favor.

Adjournment

Motion by R. Marconi, second by J. Urice, to adjourn the meeting at 12:15 p.m. **Vote:** No one opposed.

Minutes Respectfully Submitted,
Cheryl D. Reedy
HRRRA Director